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30449 7590 03/22/2012 SCHMEISER, OLSEN & WATTS 22 CENTURY HILL DRIVE SUITE 302 LATHAM, NY 12110			EXAMINER TSUI, WILSON W	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* FREDERIC BAUCHOT

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Appeal 2009-013889  
Application 10/803,660  
Technology Center 2100

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Before DENISE M. POTHIER, DAVID M. KOHUT,  
and BRUCE R. WINSOR, *Administrative Patent Judges*.

WINSOR, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from a Final Rejection of claims 1-9 and 12-19, which constitute all the claims pending in this application. Claims 10 and 11 are cancelled. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

### STATEMENT OF THE CASE

Appellant's "invention relates to the field of information processing by digital computers, and more particularly to a method and system to manipulate labelled fields in tables for data entry in data management application." (Spec. 1:3-6.) Claim 1, which is illustrative of the invention, reads as follows:

1. A method for data entry into the content of cells belonging to an output field, said data being expressed as a mathematical expression of the cell contents of at least one input field in a data multidimensional table used by a data management application, said table comprising cells arranged as a grid of records and fields, each cell corresponding to the intersection of one record with one field, each cell being identified by a cell address and comprising a cell content, said table having one specific record in which each cell content is entered as a unique character string label identifying each table field, said method comprising the steps of:  
  
entering labels corresponding to the at least one input field and a label corresponding to the output field, said later label being expressed as the mathematical expression of said labels of said at least one input field;  
  
parsing the label of the output field into a mathematical expression by identifying numeric operands, operators and the at least one existing input field label;

translating in the mathematical expression, the at least one existing input field label into the address of the cell containing the at least one input field label; and,  
for each cell of the output field, pasting in the cell content the translated mathematical expression and replacing in said pasted mathematical expression each cell address of the at least one input field label by the cell address of the at least input field belonging to the same record.

The Examiner relies on the following prior art in rejecting the claims:

Salas	US 5,317,686	May 31, 1994
Hatakeda	US 6,057,837	May 2, 2000
Hashemi	US 2003/0212804 A1	Nov 13, 2003

MATHCAD Users Guide, MathSoft, Inc., 140-141 (Aug.1999)

Claims 1-4, 6-8,<sup>1</sup> and 12-19 stand rejected under 35 U.S.C. §103(a) as unpatentable over Salas in view of Hatakeda.

Claim 5 stands rejected under 35 U.S.C. §103(a) as unpatentable over Salas in view of Hatakeda and MATHCAD.

Claim 9 stands rejected under 35 U.S.C. §103(a) as unpatentable over Salas in view of Hatakeda and Hashemi.

Rather than repeat the arguments here, we make reference to the Briefs (App. Br. filed Feb. 22, 2007; Reply Br. filed Dec. 10, 2007) for the positions of Appellant and the Final Rejection (Fin. Rej. mailed Sept. 26,

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<sup>1</sup> The Supplemental Answer (mailed August 3, 2009) omits claim 7 from the listing of the grounds for rejection (Supp. Ans. 4), as does the Appeal Brief (App. Br. 4). However the Supplemental Answer includes claim 7 in the detailed discussion of the grounds for rejection (Supp. Ans. 7-8) and the Appeal Brief includes claim 7 among the finally rejected claims on appeal (App. Br. 2). Accordingly, claim 7 is before us on appeal.

2006) and Answers (Ans. mailed July 18, 2007; Supp. Ans. mailed Aug. 3, 2009) for the respective positions of the Examiner. Only those arguments actually made by Appellant have been considered in this decision.

Arguments that Appellant did not timely make in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii) (2010).

## ISSUES

The issues presented by Appellant's contentions are as follows:

Does Salas teach or suggest "entering labels corresponding to the at least one input field and a label corresponding to the output field, said later label being expressed as the mathematical expression of said labels of said at least one input field" (hereinafter the "entering step"), as recited in claim 1?

Does Salas teach or suggest "parsing the label of the output field into a mathematical expression by identifying numeric operands, operators and the at least one existing input field label" (hereinafter the "parsing step"), as recited in claim 1?

Does Salas teach or suggest that the parsing step "includes a transformation of the cell content type from a character string into a computable mathematical expression" (hereinafter the "transformation limitation"), as recited in claim 4?

Does Salas teach or suggest "entry of a first label into the at least one input column and a second label into the at least one output column, the second label being expressed as a mathematical expression that includes the first label and at least one operator" (hereinafter the "column label limitation") as recited in claim 16?

## ANALYSIS

### *Claim 1*

Appellant contends that Salas does not teach or suggest the entering step recited in claim 1. (App. Br. 5-6; *see also* Reply Br. 2-3.) More particularly, Appellant contends that Salas teaches that input and output fields in a table portion of the screen are labeled via titles, and mathematical expressions that include the titles of the input and output fields are displayed in a calculation portion of the screen. (App. Br. 6.) The Examiner responds by pointing out that the claim language does not limit where on the screen the labels are entered and displayed. (Supp. Ans. 14.) We agree with the Examiner.

We find that Salas teaches the entering step. For further emphasis, we note that the claim language does not require that an output field label be *entered* as a mathematical expression of input field labels, only that it be *expressed* as such. The claim language also does not require that the expressing be entered within the label or preclude the expressing from being by reference to a calculation portion of a screen.

Appellant further contends that because Salas does not teach the entering step, it does not teach the parsing step (App. Br. 6). Since we have found that Salas teaches the entering step, Appellant's argument regarding the parsing step is unpersuasive. Furthermore, as pointed out by the Examiner:

Salas et al[.] inherently teaches the acting of parsing the label of the output field into a mathematical expression by identifying numeric operands, operators, and the at least one existing input field label since as shown in Fig. 4a and Fig. 4b, and taught in

column 12, lines 45-57, the output label represented as a mathematical expression (ref 45) is computed/processed to determine the result of the expression, and thus since the expression is evaluated, it is also parsed.

(Supp. Ans. 15.) Accordingly, we find that Salas teaches the parsing step.

We have reviewed the Examiner's findings (Supp. Ans. 4-6) and explanations (Supp. Ans. 14-16) in light of Appellant's arguments (App. Br. 5-8; Reply Br. 2-3). We adopt the Examiner's findings and explanations (Supp. Ans. 4-6, 14-16) as our own. Therefore, we will sustain the rejection of (1) claim 1; (2) claim 12, the patentability of which was argued together with claim 1; and (3) dependent claims 2, 3, 5-9, and 13-15, the patentability of which was not separately argued.

#### *Claim 4*

Appellant contends Salas does not teach or suggest that the parsing step includes the transformation limitation, as recited in claim 4 (App. Br. 8). Appellant's arguments for the patentability of claim 4 are substantially the same as presented for claim 1, discussed *supra*, and are unpersuasive for the same reasons.

We adopt the Examiner's findings (Supp. Ans. 7) and explanations (Supp. Ans. 17) as our own and will sustain the rejection of claim 4.

#### *Claim 16*

Appellant contends Salas does not teach or suggest the column label limitation recited in claim 16. (App. Br. 8-9.) However, Appellant's argument in the Appeal Brief consists of a recitation of the claim language and a statement, without further argument, other than a reference, without citation, to a "Response to the previous Office Action," that the limitation is not taught, shown, or suggested by Salas. (App. Br. 9.) The Appeal Brief

does not identify any evidence on the record in support of Appellant's contention. Such unsupported attorney contentions have little persuasive value. *See* 37 C.F.R. § 41.37(c)(1)(vii) ("A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim."); *see also In re Lovin*, 652 F.3d 1349, 1356 (Fed. Cir. 2011) ("We conclude that the Board has reasonably interpreted Rule 41.37 to require applicants to articulate more substantive arguments if they wish for individual claims to be treated separately.").

We adopt the Examiner's findings (Supp. Ans. 4-6, 10) and explanations (Supp. Ans. 17) as our own. We will, therefore, sustain the rejection of claim 16 and of dependent claims 17-19, the patentability of which was not separately argued.

*Arguments Not Raised in the Appeal Brief*

In the Reply Brief (Reply Br. 3-5) Appellant makes contentions regarding the disclosure of Hatakeda and the Examiner's rationale for combining Salas with Hatakeda. These contentions were not presented in the Appeal Brief. Appellant begins the newly presented argument: "[t]he Examiner further stated that Salas et al. in combination with Hatakeda et al. reads on the claimed invention (see bottom of page [sic] of the Answer Brief)."<sup>2</sup> (Reply Br. 3.) However, the Examiner's Answer (Ans. 10; Supp. Ans. 14-15) added nothing substantive to the grounds of rejection previously articulated by the Examiner (*see* Fin. Rej. 4; *see also* Ans. 4-5; Supp. Ans. 6).

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<sup>2</sup> We assume Appellant intended to refer to page 10 of the Answer mailed July 18, 2007. (*See also* Supp. Ans. 14-15.)



Appellant's contentions regarding Hatakeda do not reply to any new statement by the Examiner in the Answer, nor has Appellant shown any reason why the contentions could not have been raised in the Appeal Brief. Such arguments are untimely and waived. *See Ex parte Borden*, 93 USPQ2d 1473, 1474 (BPAI 2010) (informative) (“[T]he reply brief [is not] an opportunity to make arguments that could have been made in the principal brief on appeal to rebut the Examiner’s rejections, but were not.”)

Even if we were to consider Appellant's untimely arguments, however, we note that Appellant's Reply Brief, filed September 18, 2007, does not appear to take into consideration the holdings of *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398 (2007), decided April 30, 2007. “The obviousness analysis cannot be confined by a formalistic conception of the words teaching, suggestion, and motivation . . . .” *Id.* at 419.

#### DECISION

The decision of the Examiner to reject claims 1-9 and 12-19 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED